

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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JOE OAKLEY, DOUG BARNES, )  
JEFFREY B. POLK, MICHAEL )  
RALLINGS, MARY JOHNSON, )  
RONALD G. FITTES, KURT PHILLIPS,)  
ANTHONY ROSSER, TERRY )  
LANDRUM, DARRELL L. )  
SHEFFIELD, MICHAEL J. CLARK, )  
WILLIAM VOLNER, JERRY L. GWYN,)  
HOWELL STARNES, JOSEPH SCOTT, )  
GERALD BLUM, JOHN CALLAHAN )  
CASAD, DALE SIMMS, RUSSELL )  
G. HOUSTON, III, STEPHEN )  
GRISHAM, KIM C. MANSEL, )  
ROBERT VAUGHN, DENNIS )  
BENJAMIN, RANDY OLIVER, JERRY )  
W. WEBB, TRACY GOSSETT, SUSAN )  
K. LOWE, GENE PEVY, DAWN YORK,)  
GREGORY M. QUINN, JAMES A. )  
RICHARDSON, MARY F. NEWSOM, )  
CORNELL DYE, TIMOTHY E. COOK, )  
SR., SANDRA D. PALMER, EDWARD )  
A. VIDULICH, JERRY BOUCHILLON, )  
RICHARD BORGERS, SCOTT )  
WILSON, MICHAEL WILLIAMS, )  
ROBERT SHEMWELL, )  
Plaintiffs, )  
v. )  
CITY OF MEMPHIS, )  
Defendant. )

**No. 06-2276-STA-tmp**

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS AND DENYING  
PLAINTIFFS' MOTION TO AMEND ORDER ON REMEDIES**

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Before the Court is Plaintiffs' Motion to Amend the Order on Remedies (D.E. # 142), filed on October 4, 2011. Defendant filed a Response (D.E. # 144) on October 18, 2011. Judge Donald<sup>1</sup> referred the Motion to the Magistrate Judge (D.E. # 145) on November 1, 2011, and the Magistrate Judge issued a Report and Recommendation (D.E. # 154) on April 27, 2012, recommending that Plaintiffs' Motion be denied. The parties' objections to the Report and Recommendation were due on or before May 11, 2012, and neither party filed any objections. For the following reasons, the Court **ADOPTS** the Report and Recommendation and **DENIES** Plaintiffs' Motion.

Although neither party has filed objections to the Report, the Court is obligated to review the Magistrate Judge's recommendations to determine whether it will "accept, reject, or modify [them] in whole or in part."<sup>2</sup> After reviewing the Report and other documents filed in the case *de novo*, the Court concludes that the Magistrate Judge correctly recommended that the Court deny Plaintiffs' Motion. The Court agrees with the Magistrate Judge's proposed findings of fact: the Report and Recommendation succinctly and accurately states this case's procedural history and summarizes the parties' arguments. The Court finds that Federal Rule of Civil Procedure 60(b) was the proper Rule to apply, especially in light of Plaintiffs' failure to identify the specific Federal Rule of Civil Procedure or Local Rule under which they filed their Motion. Moreover, the Magistrate Judge's reasoning was sound. It appears to the Court that Plaintiffs' arguments either could or should have been presented before Judge Donald, and Plaintiffs have not

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<sup>1</sup> This case was reassigned to the Court due to Judge Donald's elevation to the Sixth Circuit Court of Appeals on January 17, 2012.

<sup>2</sup> 28 U.S.C. § 636(b)(1)(C).

articulated persuasive reasons why they should be excused for having failed to do so.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation and **DENIES** Plaintiffs' Motion to Amend the Order on Remedies.

**IT IS SO ORDERED.**

**s/ S. Thomas Anderson**  
S. THOMAS ANDERSON  
UNITED STATES DISTRICT JUDGE

Date: May 24, 2012.